IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITON NO.387 OF 2005

Seema Kamal Karamchandani. ...Petitioner.

vs.

Kotak Securities India Ltd. ...Respondent.

Mr.S.S.Purohit i/b. Ms.Shara Tejani, for Petitioner.

Mr.Z.Andhyarujina with S.Divekar, for Respondent.

CORAM: D.K.DESHMUKH,J.

DATED: 14th November,2005

P.C.:-

1. By this petition filed under Section 34 of the Arbitration and Conciliation Act,1996, the petitioner challenges the Award made by the Sole Arbitrator appointed by the National Stock Exchange. The Award is challenged on two grounds. The first ground is that the claim is barred by the Law of Limitation. However, the admitted position is that this ground was not raised before the learned Arbitrator and though the ground is raised in the

petition, there is no explanation given as to why the ground was not raised before the learned Arbitrator. Therefore, in view of the judgment of this Court in the Case "Rahul Bajaj vs. Mangal Keshav Securities Ltd. and another, dated 2nd February,2005 in Arbitration Petition no.237 of 2003", the ground cannot be permitted to be raised.

2. The second ground on which the Award is challenged is that the observation made in paragraph no.10 of the Award by the learned Arbitrator that the Respondent has admitted the fact that she was informed about the shortfall of her margin position on telephone on 14.5.2004, is wrong. If the learned Arbitrator has made wrong observation regarding admission made by the petitioner, then the remedy available to the petitioner was to apply the learned Arbitrator for correcting the statement recorded on behalf of the Respondent. The petitioner is not justified in approaching this Court without moving the learned Arbitrator for correcting the statement recorded by the learned Arbitrator. Therefore, this ground also cannot be permitted to be raised. The petition therefore, is rejected.